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SUNBEAM PRODUCTS, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION
15

16 FIRE INSURANCE EXCHANGE,

17 Plaintiff,

18 v.

19 SUNBEAM PRODUCTS, INC. and
20 DOES 1 through 10, inclusive,

21 Defendants.

No. CV 08-0367 CW

**JOINT RULE 26(F) REPORT AND GENERAL
DISCOVERY PLAN**

Honorable Claudia Wilken

1 Plaintiff Fire Insurance Exchange and Defendant Sunbeam Products, Inc.
2 (“Sunbeam”) (collectively, the “Parties”) jointly submit this Rule 26(f) Report and
3 General Discovery Plan, in accordance with this Court’s Orders relating to such issues.

4 **1. Conference Timing and Content (Rule 26(f)(1) and (2))**

5 The Parties initially met and conferred in preparation for this Rule 26(f) Report
6 in late March 2008, well prior to the April 22, 2008 Case Management Conference. The
7 Parties have discussed the issues set forth in Rule 26(f)(2). The Parties subsequently
8 exchanged comments on drafts of this Rule 26(f) Report and have agreed on the form of
9 the submission contained herein.

10 The Parties have also agreed to make all reasonable efforts to preserve
11 discoverable materials and information, and that no destruction of discoverable materials,
12 including destructive testing of any evidence, shall be undertaken without either: (a) the
13 express written agreement by the opposing party; or (b) an order of this Court.

14 **2. Discovery Plan (Rule 26(f)(3))**

15 **A. Initial Disclosures (Rule 26(f)(3)(A))**

16 The Parties have agreed to complete their respective initial disclosures,
17 pursuant to Rule 26(a) on or before May 21, 2008.

18 **B. Discovery (Rule 26(f)(3)(B))**

19 The Parties do not request any limitations on discovery at this time, nor do they
20 see a need to conduct discovery in phases, or to limit or focus discovery to any particular
21 issues. However, the Parties reserve the right to object to any particular discovery request
22 based on applicable grounds in law and equity. The Parties agree that December 31,
23 2008, is the target for completing non-expert discovery.

24 Plaintiff presently anticipates that it will need discovery on the topics of (a)
25 design of the electric blanket and its component parts including but not limited to the
26 control system of it; (b) manufacture of the electric blanket and its component parts,
27 including but not limited to the control system of it; (c) distribution of the electric blanket;
28 (d) identity of the manufacturer of any component parts to the electric blanket, including

1 but not limited to the control system of it; (e) any and all warranties provided with the
2 electrical blanket or its component parts; (f) any and all instructions provided with the
3 electric blanket or its component parts; (g) any and all prior recalls by the Consumer
4 Product Safety Commission of the electric blanket or its component parts, including but
5 not limited to the control system of it, (h) any and all prior consumer complaints, claims
6 or lawsuits presented relating to the same model of the electric blanket; (i) any and all
7 prior claims or lawsuits presented relating to the same model of control system of the
8 electric blanket; (j) any and all prior consumer complaints, claims or lawsuits presented
9 relating any Sunbeam electric blanket; (k) defendant's contentions regarding the cause and
10 origin of the fire; (l) defendant's contention that the cause of the fire was due to the
11 negligence of plaintiff or its insured or any other person or entity; (m) the opinions of
12 defendant's experts, the basis and methodology upon which such opinions are founded,
13 and the qualifications of defendant's experts to render such opinions, (n) defendant's
14 contentions regarding alleged alteration, destruction and spoliation of the fire scene and
15 pertinent evidence, and (o) defendant's contentions that as a newly re-named company, it
16 has no liability for the acts or omissions of its predecessor.

17 Defendant Sunbeam presently anticipates that it will need discovery on
18 (a) Plaintiff's claim that an electric blanket designed, manufactured, distributed, and/or
19 sold by Defendant Sunbeam was defective; (b) Plaintiff's assertion that the electric
20 blanket caused a fire in the home of Plaintiff's insured; (c) various issues regarding the
21 cause and origin of the fire; (d) the alteration, destruction, and spoliation of the fire scene
22 and pertinent evidence; (e) Plaintiff's claim that the fire caused damage to real and
23 personal property of Plaintiff's insured; (f) Plaintiff's allegation that it incurred
24 compensable damages as a result of such injury to property; (g) the amount of Plaintiff's
25 claimed damages; (h) whether Plaintiff took reasonable steps to mitigate said damages;
26 and (i) the opinions of Plaintiff's experts, the basis and methodology upon which such
27 opinions are founded, and the qualifications of Plaintiff's experts to render such opinions.
28

C. E-Discovery (Rule 26(f)(3)(C))

The Parties are not anticipating any issues unique to electronically stored information at this time.

D. Privilege and Protective Orders (Rule 26(f)(3)(D))

The Parties are not anticipating any issues regarding claims of privilege and agree that all such claims are preserved and not waived.

At the appropriate time, the Parties may negotiate, and then ask the Court to enter, a Stipulated Protective Order that will protect confidential and proprietary information, if any, disclosed by either party during the course of discovery from public disclosure.

E. Limitations on Discovery (Rule 26(f)(3)(E))

The Parties are prepared to abide by the limitations on discovery set forth in the Federal Rules of Civil Procedure.

F. Other Orders Under Rule 26(c) or Rule 16(b)-(c) (Rule 26(f)(3)(F))

The Parties do not believe that any other Rule 26 or Rule 16 orders are appropriate at this time.

Dated: April 15, 2008

CARROLL, BURDICK & McDONOUGH LLP

By _____ / s /
S. Mark Varney
Attorneys for Defendant
Sunbeam Products, Inc.

1 Dated: April 15, 2008

2 LAW OFFICES OF MOFFETT VITU LASCOE
3 & PACKUS, P.C.

4
5 By _____ / s /
6 Thomas L. Vitu
7 Attorneys for Defendant
8 Sunbeam Products, Inc.

9 Dated: April 15, 2008

10 LAW OFFICES OF KENNETH W. TURNER

11 By _____ / s /
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13 Attorneys for Plaintiff
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